

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Petition of)  
HAWAIIAN TELCOM, INC. )  
For Approval of Metropolitan )  
Telecommunications of )  
Hawaii, Inc., dba MetTel )  
Adoption of Think 12 Corporation )  
Interconnection Agreement. )  

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DOCKET NO. 2008-0312

DECISION AND ORDER

FILED

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PUBLIC UTILITIES  
COMMISSION

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OF THE STATE OF HAWAII

In the Matter of the Petition of)	
HAWAIIAN TELCOM, INC. )	Docket No. 2008-0312
For Approval of Metropolitan )	
Telecommunications of )	
Hawaii, Inc., dba MetTel )	
Adoption of Think 12 Corporation )	
Interconnection Agreement. )	
_____ )	

DECISION AND ORDER

By this Decision and Order, the commission approves the adoption by METROPOLITAN TELECOMMUNICATIONS OF HAWAII, INC., dba MetTel ("MetTel") of the negotiated interconnection Agreement between Think 12 Corporation, dba Hello Depot ("Think 12") and VERIZON HAWAII INC., nka HAWAIIAN TELCOM, INC. ("HTI"), pursuant to Hawaii Administrative Rules ("HAR") § 6-80-54(b).

I.

Background

HTI is a Hawaii corporation with its principal place of business in Honolulu, Hawaii. As the incumbent local exchange carrier for the State of Hawaii ("State"), HTI provides a "comprehensive slate" of local and intraLATA telecommunications services on a statewide basis.

MetTel is a Delaware corporation with its principal place of business in New York, New York. It is a competitive local exchange carrier authorized by the commission to provide

facilities-based and resold intrastate telecommunications services in the State.<sup>1</sup>

A.

Petition

By letter dated December 9, 2008 (the "Petition"), HTI filed MetTel's adoption of the negotiated interconnection agreement between Think 12 and HTI ("Interconnection Agreement"). The Petition was submitted pursuant to Section 252(i) of the Telecommunications Act of 1996 (the "Act").<sup>2</sup> The commission will construe HTI's Petition as a request for commission approval of MetTel's adoption of the Interconnection Agreement under HAR § 6-80-54.<sup>3</sup>

Along with the Petition, HTI also filed an adoption letter dated October 3, 2008 ("Adoption Letter"), signed by representatives of HTI and MetTel (collectively, the "Parties").

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<sup>1</sup>See In re Metropolitan Telecommunications of Hawaii, Inc., Docket No. 05-0121, Decision and Order No. 22005, filed on September 2, 2005.

<sup>2</sup>The Act amended Title 47 of the United States Code ("U.S.C."). Section references in this Decision and Order are, thus, to those in 47 U.S.C., as amended.

<sup>3</sup>Moreover, the Act requires any interconnection agreement adopted by negotiation or arbitration to be submitted for state commission approval. See Section 252(e) of the Act.

MetTel's adoption of the Interconnection Agreement is subject to the conditions and reservations set forth in the Adoption Letter.<sup>4</sup>

B.

MetTel's Adoption

The commission approved the Interconnection Agreement in Decision and Order No. 21126, filed on July 19, 2004, in Docket No. 04-0121 ("Decision and Order No. 21126"). In that decision and order, the commission found that the terms and conditions of the Interconnection Agreement do not discriminate against other telecommunications carriers and that implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity.<sup>5</sup>

MetTel's adoption of Think 12's Interconnection Agreement with HTI is permitted under Section 252(i) of the Act, which states that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The Adoption Letter sets forth, among other things, MetTel's intent to adopt the terms of the Interconnection

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<sup>4</sup>Copies of HTI's Petition and the Adoption Letter were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to Hawaii Revised Statutes § 269-51 and HAR § 6-61-62. No person moved to intervene or participate in this docket.

<sup>5</sup>See Decision and Order No. 21126 at 4.

Agreement, enumerates HTI's position on certain matters with regards to the applicability of the Interconnection Agreement on the Parties, and indicates MetTel's acceptance and views regarding certain portions of HTI's various positions.<sup>6</sup>

C.

Consumer Advocate's Position

On December 30, 2008, the Consumer Advocate filed its Statement of Position stating that it does not object to commission approval of MetTel's adoption of the Interconnection Agreement. The Consumer Advocate's position is based on its assertion that the Interconnection Agreement's terms, conditions, and rates are consistent with existing HTI agreements that were approved by the commission. Moreover, the Consumer Advocate notes that the commission found the Interconnection Agreement to be non-discriminatory in Decision and Order No. 21126.

The Consumer Advocate states that approval of MetTel's adoption of the Interconnection Agreement is in the public interest since the agreement will promote competition in the telecommunications industry. Further, the Consumer Advocate notes that the Interconnection Agreement is necessary for MetTel to provide the facilities-based telecommunications services that is currently authorized under its certificate of authority ("COA").

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<sup>6</sup>The following is specifically noted above the signature of MetTel's representative: "[r]eviewed and accepted as to paragraphs 1, 2, 3, 4, 5, 7, and 8. MetTel objects to the first three sentences of paragraph 6[.]" See Adoption Letter at 6.

## II.

### Discussion

HAR § 6-80-54 requires all agreements concerning access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Interconnection Agreement is not an arbitrated agreement, but one that was negotiated and consummated by Think 12 and HTI. The Adoption Letter, signed by the Parties, is a negotiated contract between MetTel and Verizon Hawaii. Accordingly, the commission will treat the Interconnection Agreement as a negotiated interconnection agreement between the Parties and conduct its review under HAR § 6-80-54(b).

Under HAR § 6-80-54(b) the commission may reject a negotiated agreement, or any portion of it, if the commission finds:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Consistent with Decision and Order No. 21126, the commission finds that the Interconnection Agreement does not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity. The commission also finds that approval of MetTel's adoption of the Interconnection Agreement is consistent with federal requirements. Furthermore, the commission recognizes that

approval of MetTel's adoption of the Interconnection Agreement will allow MetTel to provide telecommunications services in the State as authorized in its COA, increasing competition in the State's telecommunications market.

Accordingly, the commission concludes that HTI's Petition for commission approval of MetTel's adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, should be granted.

### III.

#### Orders

#### THE COMMISSION ORDERS:

1. MetTel's adoption of the Interconnection Agreement between Think 12 and HTI, subject to the conditions and reservations set forth in the Adoption Letter, is approved under HAR § 6-80-54(b).

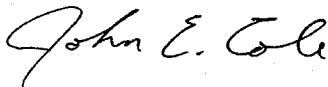
2. This docket is closed unless otherwise ordered by the commission.

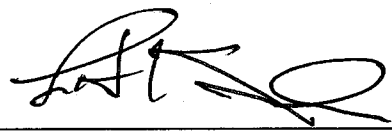
DONE at Honolulu, Hawaii

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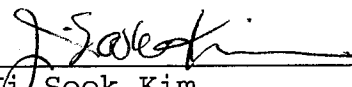
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

By:   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Ji Sook Kim  
Commission Counsel

2008-0312.ps



CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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DAVID ARONOW  
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